

Message Text

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PAGE 01 STATE 021027

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SUBJECT: MAJOR AIR TRANSPORT PROBLEMS SUITABLE FOR
CONSIDERATION ON WORLDWIDE BASIS

FOR US REP ICAO

APPENDIX TO AT-WP/1199 PRESENTS SIX POTENTIAL SUBJECTS FOR
CONSIDERATION BY A WORLDWIDE AIR TRANSPORT MEETING. OUR
COMMENTS ARE KEYED TO CONFORM TO SUCH POTENTIAL SUBJECTS.

1. POLICY AND REGULATION CONCERNING INTERNATIONAL NON-
SCHEDULED AIR TRANSPORT - BEARING IN MIND THAT MANY AIR-
LINES PROVIDE BOTH SCHEDULED SERVICES AND NON-SCHEDULED
SERVICES, ANY FORMULATION OF GENERAL RECOMMENDATIONS
SHOULD COVER SCHEDULED OPERATIONS AND NON-SCHEDULED
OPERATIONS, RATHER THAN SCHEDULED AND NON-SCHEDULED OPER-
ATORS. MOREOVER, CARE MUST BE TAKEN TO LEAVE UNDISTURBED
THE POWER OF EACH NATION TO CONTROL THE ALLOCATION OF ITS
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PAGE 02 STATE 021027

TRAFFIC BETWEEN SCHEDULED OPERATIONS AND NON-SCHEDULED

OPERATIONS, AND TO RESORT TO THE REMEDIES PROVIDED BY THE BERMUDA PRINCIPLES IN BILATERAL AGREEMENTS IN THE EVENT OF EXCESSIVE CAPACITY. THE CAB IS PREPARED TO TRANSMIT FOR THE INFORMATION OF THE AIR TRANSPORT COMMITTEE AT MONTREAL A COPY OF ITS REGULATIONS RESPECTING NON-SCHEDULED OPERATIONS.

2. ESTABLISHMENT OF INTERNATIONAL AIR TRANSPORT FARES AND RATES - THIS SUBJECT WOULD COVER RATES AND FARES OF BOTH SCHEDULED AND NON-SCHEDULED OPERATIONS. THE CURRENT MACHINERY (IATA) FOR THE ESTABLISHMENT OF RATES AND FARES REFLECTS THE NOT UNCOMMON SITUATION OF A FLAG CARRIER BEING AN ALTER EGO OF ITS GOVERNMENT. THE EXAMINATION OF SUCH SITUATIONS AND OF THE "PROPER ROLE" OF GOVERNMENTS WOULD REQUIRE TIME, TALENT AND RESOURCES WHICH DO NOT APPEAR TO BE AVAILABLE, EITHER NOW OR IN THE FORSEEABLE FUTURE. MOREOVER, THE MANIFESTATION OF POLITICAL TRENDS IN ICAO PORTENDS RECOMMENDATIONS AND CONCLUSIONS BASED ON OTHER THAN AIR TRANSPORT CRITERIA.

3. TARIFF CLAUSES IN BILATERAL AGREEMENTS- THE MODIFICATION OF PROVISIONS OF BILATERAL AGREEMENTS ARE CUSTOMARILY MATTERS FOR THE PARTIES TO THE PARTICULAR AGREEMENT TO NEGOTIATE. THE US CAN BE EXPECTED TO UTILIZE ITS RELATIVELY NEW STATUTORY POWER TO SUSPEND, REJECT OR CANCEL A FARE IN FOREIGN AIR TRANSPORTATION BEFORE DETERMINING THAT A MULTILATERAL TARIFF CLAUSE IS PREFERABLE EITHER TO THE EXISTING BILATERAL AGREEMENT PROVISIONS OR TO SUCH NEW STATUTORY POWER.

4. REGULATION OF CAPACITY IN INTERNATIONAL SCHEDULED SERVICES - IT IS QUESTIONABLE WHETHER A REVIEW OF CAPACITY CLAUSES IN BILATERAL AGREEMENTS WOULD BE PRODUCTIVE. CAPACITY CLAUSES ARE UTILIZED AS MEASURES OF DISCRIMINATION AND UNFAIR COMPETITIVE PRACTICES AS WELL AS MEASURES TO COMBAT SUCH DISCRIMINATION AND PRACTICES. UNTIL SUCH ABUSE OF CAPACITY CLAUSES TERMINATES, WE BELIEVE NO USEFUL PURPOSE WOULD BE SERVED BY REVIEW OF THE TEXTS OF THE SEVERAL CLAUSES.

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PAGE 03 STATE 021027

5. TARIFF ENFORCEMENT - A COMPILATION OF THE MEANS AVAILABLE TO GOVERNMENTS TO ENSURE COMPLIANCE WITH INTERNATIONAL AIR TRANSPORT TARIFFS COULD BE HIGHLY BENEFICIAL. FOR EXAMPLE, IT WOULD ENABLE ONE GOVERNMENT TO SUGGEST THAT ANOTHER GOVERNMENT UTILIZE A SPECIFIC MEASURE OF TARIFF ENFORCEMENT UPON OCCASIONS WHEN NON-ENFORCEMENT WAS CAUSING INJURY.

6. INTERNATIONAL AIRLINE CO-OPERATION - TO WHAT EXTENT A REVIEW OF CURRENT AGREEMENTS AND ARRANGEMENTS WOULD ENTAIL DIVULGENCE OF "SIDE AGREEMENTS" IS NOT APPARENT. NEVERTHELESS, A WIDER AVAILABILITY OF SPARE PARTS AND EQUIPMENT IN REMOTE AREAS IS AN EXAMPLE OF THE BENEFITS FOR MAINTENANCE OF SPARE PARTS FOR USE IN EMERGENCIES WHICH COULD RESULT FROM A REVIEW OF INTERNATIONAL

AGREEMENTS. US AIR CARRIERS WOULD OF COURSE BE CONSTRAINED TO AVOID TRAFFIC POOLING AND SIMILAR COMBINATIONS WITHOUT CAB APPROVAL. KISSINGER

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